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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,577	12/18/2000	Yosef Freedland	JST-14	6342

24039 7590 09/20/2002

INNOVAR, LLC  
P O BOX 250647  
PLANO, TX 75025

EXAMINER

REIP, DAVID OWEN

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 09/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/740,577

Applicant(s)

FREEDLAND, YOSEF

Examiner

David O. Reip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 34-76 is/are pending in the application.
- 4a) Of the above claim(s) 36-39, 41, 42, 44-46 and 51-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34, 35, 40 and 43 is/are rejected.
- 7) ☒ Claim(s) 47-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34, 35, 40, and 43 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dzus et al (U.S. Pat. No. 2,485,531. Figs. 1-7 of Dzus et al clearly show an orthopedic fastening system having all the limitations as recited in the above listed claims, including: and elongate fastener 10; a single winged element 13 pivotably engaged (via pin 14) with a first end of the elongate fastener such that it is pivotable adjacent the first end and having a flat outer portion with a width substantially parallel to said axis and a length larger than the diameter of the bore (41) into which the fastener is to be installed; and an internally threaded "collet" 17. Note that the definition of the term "flat" can be broadly but reasonably interpreted as "having a smooth, even surface" (Webster's II New Riverside University Dictionary), and therefore the winged element or toggle 13 of Dzus et al has a "flat" outer edge or portion, as seen on Fig. 2.

### ***Allowable Subject Matter***

Claims 47-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: Claim 47 contains allowable subject matter because the prior art fails to disclose or suggest a longitudinally split collet as claimed. Claims 48-50 are indicated as containing allowable subject matter at least by virtue of being ultimately dependent upon claim 47.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dunham shows a clamping bolt device having a single winged element with a flat outer portion. In fact, it appears that at least claim 34 reads on the Dunham device under 102(b).

As to the amendment of claim 52, note that the restriction requirement was made FINAL in the prior Office action mailed 1/29/02, wherein claims 36-39, 41, 42, 44-46, and 51-76 were withdrawn from further consideration as being drawn to a nonelected invention, there being no allowable generic or linking claim. As of this Office action, there are no allowable generic or linking claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

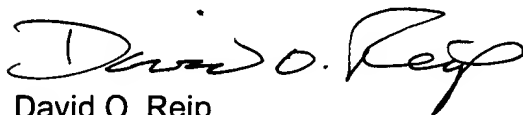
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David O. Reip at (703) 308-3383. The examiner can normally be reached Mon-Thu and every other Fri from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano, can be reached at (703) 308-2496. The fax number for this Unit is (703) 308-2708 (unofficial) or (703) 872-9302 (official). The examiner can also receive direct-to-computer faxes at 703-746-3310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist at (703) 308-0858.

A handwritten signature in black ink, appearing to read "David O. Reip". The signature is fluid and cursive, with the first name "David" and last name "Reip" being clearly legible.

David O. Reip  
Primary Examiner  
September 16, 2002